

REMARKS

The Office Action mailed July 2, 2008 has been carefully reviewed and these remarks are responsive thereto. Claims 45, 48, 49 and 79 have been amended. Claims 47 and 82-87 have been cancelled. Claims 88-89 are new. No new matter is added. Reconsideration of the application in view of the foregoing amendments and following remarks is respectfully requested. Each of the Examiner's rejections is discussed below.

Claim Rejections under 35 U.S.C. §112

Claims 45, 47, 48, 77 and 79-81 stand rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. Claim 42 originally recited "wherein no portion of any of the third cleaning elements and no portion of the head extends outwardly beyond the second surface under any condition." The Office Action correctly states that Figure 15 shows a central portion of the head extends outwardly beyond the second surface of the rigid portion. Claim 42 is amended to recite that no portion of any of the third cleaning elements extends outwardly beyond the second surfaces of said movable and rigid portions under any condition. Thus, the "no portion of the head" has been deleted. Support for the cleaning elements not extending beyond the second surfaces can be found in Figure 15.

The Office Action further states that there is no support for "a discontinuity in the form of an opening...." The discontinuity element has been deleted from claim 45 and replaced with "a gap in the head positioned between said rigid portion and said movable portion; a resilient membrane made of an elastomeric material for flexibly attaching said movable portion to said rigid portion, said membrane positioned in a part of said gap...." Support can be found on page 29, lines 15 -20 of the specification as filed.

Claim Rejections under 35 U.S.C. § 103(a)

Claims 45, 47-48, 77, and 79-84 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 3,316,576 to Urbush ("Urbush") in view of U.S. Patent No. 2,266,195 to Hallock ("Hallock"). This rejection is respectfully traversed.

The combination of Urbush and Hallock fails to disclose or make obvious a toothbrush with a head having a rigid portion and a movable portion, wherein said rigid portion is non-movable relative to said neck and wherein said movable portion is movable relative to said neck, as required by independent claim 45. In Hallock, the toothbrush head is divided into two portions 13, 15, both of which move relative to the neck/handle 10. Neither portion 13, 15 of the head of the toothbrush disclosed by Hallock is a rigid portion. Portion 13 is connected to the neck by finger/arm 12, while portion 15 is connected to the neck by fingers/arms 11. Hallock clearly states that the "fingers 11 and 12 are quite flexible." *Hallock*, col. 1, ln 58. Thus, Hallock fails to disclose a toothbrush with a head having a rigid portion and a movable portion, wherein said rigid portion is non-movable relative to said neck and wherein said movable portion is movable relative to said neck, as required by independent claim 45. Urbush fails to overcome the deficiencies of Hallock discussed above. Accordingly, the rejection is improper and should be withdrawn.

Finally, although art cited in previous office actions discloses a toothbrush with a movable portion and a rigid portion, the art of record fails to show "a resilient membrane for flexibly attaching said movable portion to said rigid portion, said membrane positioned in a part of said gap; and a plurality of third cleaning elements, each third cleaning element mounted on said resilient membrane and connected to both said rigid portion and said movable portion...wherein no portion of any of the third cleaning elements extends outwardly beyond the second surfaces of said movable and rigid portions under any condition." Thus, claim 45 is allowable over the art of record.


Response to Office Action
USSN 10/697,213
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CONCLUSION

It is respectfully submitted that this application is in condition for allowance. If any additional fees are required or if an overpayment has been made, the Commissioner is authorized to charge or credit Deposit Account No. 03-2455.

Respectfully submitted,
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